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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,941	01/07/2002	Daniel F. Moore	09857-085001	5131
26161 7590 03/20/2007 FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER NGUYEN, NGA B	
			ART UNIT	PAPER NUMBER
			3692	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/040,941	Applicant(s) MOORE ET AL.	
	Examiner Nga B. Nguyen	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the Amendment filed on December 4, 2006, which paper has been placed of record in the file.
2. Claims 1-20 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of new grounds of rejection.
4. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 18-20 are rejected under 35 U.S.C. 112, first paragraph, because the claims recite a single means. A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). In this case, "a computer system" recites in the claims is a single means because the computer system does not appear in combination with another recited element of means.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 13-17 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The dependent claims 13-17 recite "the method of claim 12", there is insufficient antecedent basis for this limitation in the claims because the parent claim 12 recites "a computer program", claim 12 does not recite any method. The dependent claim 20 recites "the apparatus of claim 1", there is insufficient

Art Unit: 3692

antecedent basis for this limitation in the claim because the parent claim 1 recites "a method", claim 1 does not recite any apparatus.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ketchum et al (hereinafter Ketchum), U.S. Patent No. 7,181,424.

Regarding to claim 1, Ketchum discloses a method of trading securities in an electronic market, the method comprises:

receiving a grouped order repressing customer orders to trade a particular security, each customer order including a quantity of shares for the security and a price at which to trade the order, with the customer orders being initial interest and grouped with respect to price (column 4, lines 25-40, the quote/order manager manages multiple orders at multiple price levels and uses a montage manager to display in the Aggregate montage; column 5, lines 43-50, each order includes a quantity of shares and a price); displaying interest associated with the grouped order as a quote (column 5, lines 23-42); and thereafter

receiving subsequent grouped customer orders that are grouped with the initial interest according to price and assigning different time stamps to components of the subsequent grouped customer orders base on the time of receipt of the subsequent grouped orders (column 4, lines 52-62, receiving orders and time stamps each order upon receipt); and

matching components of the grouped order against interest in the market based on how the components of the grouped order interest with interest in the electronic market (column 6, lines 18-27).

Regarding to claim 2, Ketchum further discloses wherein the components interact with the market based on a priority type selected for contra side orders in the market (column 8, lines 10-20).

Regarding to claim 3, Ketchum further discloses wherein matching the summary order against displayed contra site interest occurs according to a priority selected from the group consisting of strict price/time, or price/size/time, or price/time that account for ECN access fees (column 8, lines 10-20).

Regarding to claim 4, Ketchum further discloses wherein displaying initial interest and subsequent interest is based on the total of such interest without regard to time of receipt of the interest (column 5, lines 23-42).

Regarding to claim 5, Ketchum further discloses wherein displaying initial interest and subsequent interest is displayed as a quote in a quote montage (column 5, lines 23-42).

Regarding to claim 6, Ketchum further discloses wherein displaying initial interest and subsequent interest is displayed as a quote in a quote montage with other interest of market makers, other ECNs, and non-attributable agency offers of UTP Exchange, in a specified priority between such interest (columns 13-14).

Regarding to claim 7, Ketchum further discloses wherein receiving of customer orders is from an electronic communication network (column 2, lines 45-65).

Regarding to claim 8, Ketchum further discloses wherein the grouped order includes an identifier for each component of the group order that indicates the capacity at which the market maker is trading that component (see figure 9).

Regarding to claim 9, Ketchum further discloses assigning a time receipt to initial customer order components of the grouped order (column 4, lines 52-58).

Regarding to claim 10, Ketchum further discloses wherein initial aggregated interest and additional interest is displayed to the market single quotes, but within at least one of the price levels the interest in the price level interacts with the market in a different manner according to the time of receipt of each component of that interest (column 12, lines 30-52).

Regarding to claim 11, Ketchum further discloses displaying interest associated with the grouped order as a quote (column 12, lines 30-52).

Claims 12-17 are written in computer program product and contain similar limitations found in claims 1-6 above, therefore, are rejected by the same rationale.

Claims 18-20 contain similar limitations found in claims 1, 4, and 7 above, therefore, are rejected by the same rationale. Moreover, Ketchum further discloses a computer system executing a computer program product residing on a computer readable medium for displaying quotations (column 2, lines 45-67).

Conclusion

11. Claims 1-20 are rejected.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571) 272-6777.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

13. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-0325 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

Application/Control Number: 10/040,941

Page 8

Art Unit: 3692

Nga Nguyen

**NGA NGUYEN
PRIMARY EXAMINER**

February 28, 2007